

APPEAL, CLOSED

United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:04-cv-10738-MLW

Alexander v. Brigham & Women's Physicians Organization, Date Filed: 04/12/2004
Inc. et al Jury Demand: Plaintiff
Assigned to: Chief Judge Mark L. Wolf Nature of Suit: 791 Labor: E.R.I.S.A.
Demand: \$441,000 Jurisdiction: Federal Question
Cause: 29:1132 E.R.I.S.A.-Employee Benefits

Plaintiff

Eben Alexander, III

represented by **Colleen C. Cook**
Nystrom Beckman & Paris LLP
10 St. James Avenue
16th Floor
Boston, MA 02116
617-778-9100
Fax: 617-778-9110
Email: ccook@nbparis.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Michael G. Paris
Nystrom Beckman & Paris LLP
10 St. James Avenue
16th Floor
Boston, MA 02116
617-856-8125
Fax: 617-856-8201
Email: mparis@nbparis.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

David C. Casey
Littler Mendelson P.C.
Suite 2700
One International Place
Suite 2700
Boston, MA 02110
617-378-6001
Fax: 617-737-0052
Email: dcasey@littler.com
ATTORNEY TO BE NOTICED

V.

Defendant

Brigham & Women's Physicians Organization, Inc.
successor to Brigham Surgical Group Foundation, Inc.

represented by **David C. Casey**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Gregory C. Keating
Littler Mendelson P.C.
One International Place
Suite 2700
Boston, MA 02110
617-378-6003
Fax: 617-737-0052
Email: gkeating@littler.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Laurie Drew Hubbard
Littler Mendelson P.C.
One International Place
Suite 2700
Boston, MA 02110
617-378-6013
Fax: 617-737-0052
Email: lhubbard@littler.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Boston Neurosurgical Foundation, Inc.

represented by **David C. Casey**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Gregory C. Keating
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Laurie Drew Hubbard
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan

represented by **David C. Casey**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Gregory C. Keating
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Laurie Drew Hubbard
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

**Brigham Surgical Group Foundation,
Inc. Faculty Retirement Benefit Plan**

represented by **David C. Casey**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Gregory C. Keating
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Laurie Drew Hubbard
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

**Committee on Compensation of the
Brigham Surgical Group Foundation,
Inc.**

represented by **David C. Casey**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Gregory C. Keating
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Laurie Drew Hubbard
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

**Fidelity Investments Institutional
Operations Co., Inc.**
TERMINATED: 11/30/2004

represented by **Laurie Drew Hubbard**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

David C. Casey
(See above for address)

ATTORNEY TO BE NOTICED

Gregory C. Keating
 (See above for address)
ATTORNEY TO BE NOTICED

Defendant

Fidelity Management Trust Co.
TERMINATED: 11/30/2004

represented by **Laurie Drew Hubbard**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

David C. Casey
 (See above for address)
ATTORNEY TO BE NOTICED

Gregory C. Keating
 (See above for address)
ATTORNEY TO BE NOTICED

Defendant

Peter Black, M.D.

represented by **David C. Casey**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Gregory C. Keating
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Laurie Drew Hubbard
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

**Fidelity Management Trust
 Company**

represented by **David C. Casey**
 (See above for address)
ATTORNEY TO BE NOTICED

Gregory C. Keating
 (See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
04/12/2004	1	COMPLAINT Filing fee: \$ 150, receipt number 55196, filed by Eben Alexander III. (Attachments: # 1 Part 2 of 2)(Patch, Christine) (Entered:

		04/16/2004)
04/12/2004	●	If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Collings. (Patch, Christine) (Entered: 04/16/2004)
04/12/2004	●	Summons Issued as to Peter Black M.D., Boston Neurosurgical Foundation, Inc., Brigham & Women's Physicians Organization, Inc., Brigham Surgical Group Foundation, Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan, Committee on Compensation of the Brigham Surgical Group Foundation, Inc., Fidelity Investments Institutional Operations Co., Inc., Fidelity Management Trust Co.. (Patch, Christine) (Entered: 04/16/2004)
05/03/2004	● 2	MOTION for Extension of Time to May 24, 2004 to File Answer or Otherwise Respond to 1 Complaint by Peter Black M.D., Boston Neurosurgical Foundation, Inc., Brigham & Women's Physicians Organization, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan, Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan, Committee on Compensation of the Brigham Surgical Group Foundation, Inc. (Patch, Christine) (Entered: 05/06/2004)
05/06/2004	●	Judge Patti B. Saris : Electronic ORDER entered granting 2 Motion for Extension of Time to Answer re 1 Complaint by Peter Black M.D., Boston Neurosurgical Foundation, Inc., Brigham & Women's Physicians Organization, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan, Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan, Committee on Compensation of the Brigham Surgical Group Foundation, Inc.. (Patch, Christine) (Entered: 05/06/2004)
05/13/2004	● 3	STIPULATION to Extend Time to Respond to 1 Complaint to May 24, 2004 by Eben Alexander III, Fidelity Investments Institutional Operations Co., Inc., Fidelity Management Trust Co. (Patch, Christine) (Entered: 05/18/2004)
05/13/2004	●	Set/Reset Answer Deadlines for Fidelity Investments Institutional Operations Co., Inc., Fidelity Management Trust Co.: Answer to Complaint due 5/24/04. (Patch, Christine) (Entered: 05/18/2004)
05/24/2004	● 4	MOTION to Dismiss by Peter Black M.D., Boston Neurosurgical Foundation, Inc., Brigham & Women's Physicians Organization, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan, Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan, Committee on Compensation of the Brigham Surgical Group Foundation, Inc., Fidelity Investments Institutional Operations Co., Inc., Fidelity Management Trust Co..(Patch, Christine) (Entered: 05/27/2004)
05/24/2004	● 5	MEMORANDUM in Support re 4 MOTION to Dismiss filed by Peter Black M.D., Boston Neurosurgical Foundation, Inc., Brigham & Women's Physicians Organization, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan, Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan. Committee on

		Compensation of the Brigham Surgical Group Foundation, Inc., Fidelity Investments Institutional Operations Co., Inc., Fidelity Management Trust Co.. (Patch, Christine) (Entered: 05/27/2004)
06/02/2004	⑥	CORPORATE DISCLOSURE STATEMENT by Brigham & Women's Physicians Organization, Inc. (Patch, Christine) (Entered: 06/08/2004)
06/02/2004	⑦	CORPORATE DISCLOSURE STATEMENT by Fidelity Management Trust Co. (Patch, Christine) (Entered: 06/08/2004)
06/02/2004	⑧	CORPORATE DISCLOSURE STATEMENT by Fidelity Investments Institutional Operations Co., Inc. (Patch, Christine) (Entered: 06/08/2004)
06/07/2004	⑨	Opposition re 4 MOTION to Dismiss filed by Eben Alexander III. (Patch, Christine) (Entered: 06/09/2004)
06/14/2004	⑩	NOTICE of Hearing on 4 MOTION to Dismiss: Motion Hearing set for 7/23/2004 at 3:30 PM in Courtroom 13 before Judge Patti B. Saris. (Alba, Robert) (Entered: 06/14/2004)
06/14/2004	⑪	NOTICE of Scheduling Conference. Scheduling Conference set for 7/23/2004 at 3:30 PM in Courtroom 13 before Judge Patti B. Saris. (Alba, Robert) (Entered: 06/14/2004)
07/02/2004	⑫	MOTION for Leave to File Reply Memorandum by Boston Neurosurgical Foundation, Inc., Brigham & Women's Physicians Organization, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan, Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan, Committee on Compensation of the Brigham Surgical Group Foundation, Inc., Fidelity Investments Institutional Operations Co., Inc., Fidelity Management Trust Co.. (Attachments: # 1 Reply Memorandum of Law in Support of their Motion to Dismiss) (Patch, Christine) (Entered: 07/12/2004)
07/20/2004	⑬	JOINT STATEMENT re scheduling conference. (Patch, Christine) (Entered: 07/26/2004)
07/23/2004	⑭	Judge Patti B. Saris : ORDER entered ORDER OF RECUSAL. (Patch, Christine) (Entered: 07/28/2004)
07/29/2004	⑮	Case Reassigned to Judge Mark L. Wolf. Judge Patti B. Saris no longer assigned to the case. Counsel are directed to the Court's Standing Orders re: Electronic Case Filing. (Patch, Christine) (Entered: 07/29/2004)
10/27/2004	⑯	NOTICE of Scheduling Conference An initial scheduling conference will be held in Courtroom No. 10 on the 5 floor at 2:00 p.m. on November 29, 2004,. Please note that the court will also hear oral argument on the pending motion(s) to dismiss on this date.(O'Leary, Dennis) (Entered: 10/27/2004)
11/09/2004	⑰	NOTICE of Change of Address by Laurie Drew Hubbard (Patch, Christine) (Entered: 11/16/2004)

11/15/2004	17	NOTICE of Change of Address by Gregory C. Keating (Patch, Christine) (Entered: 11/18/2004)
11/22/2004	18	JOINT STATEMENT re scheduling conference statement, FILED, c/s. (Boyce, Kathy) (Entered: 11/29/2004)
11/29/2004	19	Clerk's Notes for proceedings held before Judge Mark L. Wolf : Motion Hearing held on 11/29/2004 re <u>4</u> MOTION to Dismiss filed by Fidelity Investments Institutional Operations Co., Inc., Brigham & Women's Physicians Organization, Inc., Boston Neurosurgical Foundation, Inc., Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan, Committee on Compensation of the Brigham Surgical Group Foundation, Inc., Fidelity Management Trust Co., Peter Black, Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan. (Court Reporter Twomey.) (O'Leary, Dennis) (Entered: 11/30/2004)
11/29/2004	21	CERTIFICATION pursuant to Local Rule 16.1 by Eben Alexander III., FILED IN OPEN COURT, c/s.(Boyce, Kathy) (Entered: 12/03/2004)
11/30/2004	20	Judge Mark L. Wolf : ORDER entered granting in part and denying in part <u>4</u> Motion to Dismiss (O'Leary, Dennis) (Entered: 11/30/2004)
12/02/2004	22	Judge Mark L. Wolf : Electronic ORDER entered finding as moot <u>12</u> Motion for Leave to File (O'Leary, Dennis) (Entered: 12/02/2004)
12/17/2004	22	Letter/request to Judge Wolf dated 12/17/04 from Michael Paris, Esq. on behalf of all parties reporting to the Court that the parties are currently engaged in settlement discussions and will report back further on 12/30/04 re whether they believe that they would benefit from the Court's involvement to successfully conclude such discussions, FILED. (Boyce, Kathy) (Entered: 12/27/2004)
12/30/2004	23	Letter dated 12/30/04 from David C. Casey, Esq. to Judge Wolf dated 12/30/04 requesting a brief extension of time to continue to pursue settlement discussions and to report to the court on or before 1/14/05 the status of the settlement negotiations, FILED. (Boyce, Kathy) (Entered: 01/04/2005)
01/04/2005	24	Letter dated 1/14/05 to Judge Wolf from David C. Casey, Esq. reporting on behalf of the parties that the parties are not able to settle this case and proposing that the parties brief the question of whether either or both of the BSG's deferred compensation plans are valid top hat pans under ERISA before engaging in any other litigation, FILED. (Boyce, Kathy) (Entered: 01/19/2005)
01/30/2005	25	Judge Mark L. Wolf : Electronic ORDER entered. ELECTRONIC ENDORSEMENT re <u>24</u> Letter/request (non-motion), Letter/request (non-motion). ALLOWED. The schedule requested is hereby adopted if the parties agree there are no material facts in dispute and make their submission pursuant to L.R. 56.1(O'Leary, Dennis) (Entered: 02/01/2005)
03/08/2005	25	MOTION for Extension of Time to 3/24/2005 to File Motion for

		Summary Judgment by Eben Alexander, III.(O'Leary, Dennis) (Entered: 03/09/2005)
03/09/2005	②5	Judge Mark L. Wolf : Electronic ORDER entered granting <u>25</u> Motion for Extension of Time to File Motions for Summary Judgment. (O'Leary, Dennis) (Entered: 03/09/2005)
03/14/2005	②6	Assented to MOTION to Extend Rule 56 Deadline by Fidelity Management Trust Company, Peter Black, MD, Brigham & Women's Physicians Organization, Inc., Boston Neurosurgical Foundation, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan, Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan, Committee on Compensation of the Brigham Surgical Group Foundation, Inc..(Patch, Christine) (Entered: 03/18/2005)
03/21/2005	②7	Judge Mark L. Wolf : Electronic ORDER entered granting <u>26</u> Motion for Extension of Time. Allowed, however, the parties are reminded that they are authorized to file motions for summary judgment only if they agree that there are no material facts in dispute and comply with L.R. 56.1 (O'Leary, Dennis) (Entered: 03/21/2005)
03/22/2005	②7	JOINT MOTION for Extension of Rule 56 Deadlines for pltf to file his motion for summary judgment to April 5, 2005 by Fidelity Management Trust Company, Fidelity Investments Institutional Operations Co., Inc.. Fidelity Management Trust Co., Peter Black, MD, Eben Alexander, III, Brigham & Women's Physicians Organization, Inc., Boston Neurosurgical Foundation, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan. Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan. Committee on Compensation of the Brigham Surgical Group Foundation, Inc., FILED, c/s.(Boyce, Kathy) (Entered: 03/23/2005)
03/22/2005	②8	JOINT MOTION to Extend Rule 56 Deadlines to by Peter Black, MD, Eben Alexander, III, Brigham & Women's Physicians Organization, Inc., Boston Neurosurgical Foundation, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan, Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan, Committee on Compensation of the Brigham Surgical Group Foundation, Inc., FILED, c/s.(Boyce, Kathy) Modified on 4/6/2005 for the docket to reflect that this entry is duplicative of Doc. #27(Boyce, Kathy). (Entered: 03/24/2005)
04/05/2005	②9	EMERGENCY MOTION for Extension of Time to April 8, 2005 to for Pltf to file his Motion for Summary Judgment by Fidelity Management Trust Co., Peter Black, MD, Eben Alexander, III, Brigham & Women's Physicians Organization, Inc.. Boston Neurosurgical Foundation, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan, Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan, Committee on Compensation of the Brigham Surgical Group Foundation, Inc., FILED, c/s.(Boyce, Kathy) (Entered: 04/06/2005)
04/05/2005	③0	JOINT MOTION to Impound by Peter Black, MD, Eben Alexander, III,

		Brigham & Women's Physicians Organization, Inc., Boston Neurosurgical Foundation, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan, Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan, Committee on Compensation of the Brigham Surgical Group Foundation, Inc., FILED. (Attachments: # 1 Exhibit 1)(Boyce, Kathy) (Entered: 04/07/2005)
04/06/2005	28	Motion terminated as Moot 28 MOTION for Extension of Time to May 16, 2005 to File filed by Eben Alexander, III, Brigham & Women's Physicians Organization, Inc., Boston Neurosurgical Foundation, Inc., Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan, Committee on Compensation of the Brigham Surgical Group Foundation, Inc., Peter Black, M.D., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan. This motion is terminated as it is a duplicate of Document No. 27 (Boyce, Kathy) (Entered: 04/06/2005)
04/06/2005	29	Notice of correction to docket made by Court staff. Correction: Document No. 28, Joint Motion for Extension of time corrected because: to note that the entry is a duplicate of #27 and was inadvertently e-filed (Boyce, Kathy) (Entered: 04/06/2005)
04/07/2005	30	Judge Mark L. Wolf : Electronic ORDER entered finding as moot 27 Motion for Extension of Time to File Response/Reply re 27 MOTION for Extension of Time to File Response/Reply as to Order on Motion for Extension of Time, 29 MOTION for Extension of Time to April 8, 2005 to for Pltf to file his Motion for Summary Judgment, granting 29 Motion for Extension of Time (O'Leary, Dennis) (Entered: 04/07/2005)
04/08/2005	31	MOTION for Summary Judgment on Counts IX and XII of the Complaint, by Eben Alexander, III, FILED, c/s. (Boyce, Kathy) (Entered: 04/12/2005)
04/08/2005	32	SEALED DOCUMENT, FILED. (Boyce, Kathy) (Entered: 04/12/2005)
04/08/2005	33	SEALED DOCUMENT, FILED. (Boyce, Kathy) (Entered: 04/12/2005)
04/08/2005	34	SEALED DOCUMENT, FILED. (Boyce, Kathy) (Entered: 04/12/2005)
04/08/2005	35	MEMORANDUM OF LAW in Support (Redacted Version) re 31 MOTION for Summary Judgment filed by Eben Alexander, III, c/s. (Boyce, Kathy) (Entered: 04/12/2005)
04/08/2005	36	STATEMENT of Undisputed Facts Material Facts Pursuant to Local Rule 56.1, FILED, c/s. (Boyce, Kathy) Modified on 4/12/2005 to add redacted version to text of entry (Boyce, Kathy). (Entered: 04/12/2005)
04/08/2005	37	Agreed STATEMENT of Facts For Cross Summary Judgment Motions (Attachments: # 1 Errata A# 2 Exhibit B# 3 Exhibit C# 4 Exhibit D# 5 Exhibit E), FILED (Boyce, Kathy) (Entered: 04/12/2005)
04/08/2005	38	APPENDIX of Selected Authorities in support of 31 MOTION for Summary Judgment by Eben Alexander, III, FILED, c/s. (Boyce, Kathy) (Entered: 04/14/2005)

05/16/2005	③9	MOTION for Summary Judgment by Fidelity Management Trust Company, Brigham & Women's Physicians Organization, Inc., Boston Neurosurgical Foundation, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan, Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan, Committee on Compensation of the Brigham Surgical Group Foundation, Inc., FILED, C/S.(Boyce, Kathy) (Entered: 05/17/2005)
05/16/2005	④0	MEMORANDUM OF LAW re ③9 MOTION for Summary Judgment filed by Fidelity Management Trust Company, Peter Black, MD, Brigham & Women's Physicians Organization, Inc., Boston Neurosurgical Foundation, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan, Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan, Committee on Compensation of the Brigham Surgical Group Foundation, Inc., FILED, c/s. (Boyce, Kathy) (Entered: 05/17/2005)
05/16/2005	④1	STATEMENT of facts re ③9 MOTION for Summary Judgment, FILED, c/s. (Boyce, Kathy) (Entered: 05/17/2005)
05/24/2005	④2	Joint MOTION for Leave to File reply and surreply bries to cross motions for summary judgment by 6/9/05 and 6/29/05 by Fidelity Management Trust Company, Peter Black, MD, Eben Alexander, III, Brigham & Women's Physicians Organization, Inc., Boston Neurosurgical Foundation, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan, Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan, Committee on Compensation of the Brigham Surgical Group Foundation, Inc..(Flaherty, Elaine) (Entered: 05/26/2005)
06/02/2005	④	Judge Mark L. Wolf : Electronic ORDER entered granting ④2 Motion for Leave to File (O'Leary, Dennis) (Entered: 06/02/2005)
06/09/2005	④3	REPLY BRIEF to Response to Motion RE ③1 MOTION for Summary Judgment filed by Eben Alexander, III., filed, c/s. (Boyce, Kathy) (Entered: 06/13/2005)
06/30/2005	④4	Defts' SUR-REPLY to Motion re ③9 MOTION for Summary Judgment filed by Fidelity Management Trust Company, Peter Black, MD, Brigham & Women's Physicians Organization, Inc., Boston Neurosurgical Foundation, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan, Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan, Committee on Compensation of the Brigham Surgical Group Foundation, Inc., FILED, c/s. (Boyce, Kathy) (Entered: 07/01/2005)
11/07/2005	④5	NOTICE of Hearing on Motion ③1 MOTION for Summary Judgment, ③9 MOTION for Summary Judgment: Motion Hearing set for 11/15/2005 02:30 PM in Courtroom 10 before Judge Mark L. Wolf. (O'Leary, Dennis) (Entered: 11/07/2005)
11/15/2005	④6	Clerk's Notes for proceedings held before Judge Mark L. Wolf : Motion Hearing held on 11/15/2005 re ③1 MOTION for Summary Judgment filed

		by Eben Alexander, III. <u>39</u> MOTION for Summary Judgment filed by Fidelity Management Trust Company., Brigham & Women's Physicians Organization, Inc... Boston Neurosurgical Foundation, Inc., Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan., Committee on Compensation of the Brigham Surgical Group Foundation, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan., (Court Reporter Romanow.) (O'Leary, Dennis) (Entered: 11/16/2005)
11/15/2005	<u>47</u>	Judge Mark L. Wolf : ORDER entered denying <u>30</u> Motion to Seal Document and establishing various filing deadlines and setting a further hearing for 1/13/06 at 3:00 PM. (O'Leary, Dennis) (Entered: 11/16/2005)
11/16/2005	<u>48</u>	Set Deadlines/Hearings: Status Report due by 12/7/2005. Further Motion Hearing set for 1/13/2006 03:00 PM in Courtroom 10 before Judge Judge Mark L. Wolf. (O'Leary, Dennis) (Entered: 11/16/2005)
12/07/2005	<u>48</u>	Letter to Judge Wolf from Michael Paris and David Casey, Esqs. reporting that the parties appear to be too far apart in terms of their respective settlement positions and that they will supplement the stipulated facts by 12/14/05 in accordance with the Court's 11/15/05 Order, FILED. (Boyce, Kathy) (Entered: 12/08/2005)
12/13/2005	<u>49</u>	JOINT MOTION for Extension of Time to 12/19/05 for the Parties to Supplement their Stipulated Facts by Fidelity Management Trust Company, Peter Black, MD, Eben Alexander, III, Brigham & Women's Physicians Organization, Inc., Boston Neurosurgical Foundation, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan. Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan, Committee on Compensation of the Brigham Surgical Group Foundation, Inc., FILED. c/s.(Boyce, Kathy) (Entered: 12/14/2005)
12/15/2005	<u>50</u>	Judge Mark L. Wolf : Electronic ORDER entered granting <u>49</u> Motion for Extension of Time to File Stipulated Facts to 12/19/05 (O'Leary, Dennis) (Entered: 12/15/2005)
12/19/2005	<u>50</u>	STATEMENT of facts <i>Joint/Supplemental for Cross Summary Judgment Motions.</i> (Casey, David) (Entered: 12/19/2005)
12/19/2005	<u>51</u>	Letter (non-motion) from David C. Casey on behalf of the parties to Judge Wolf in response to the November 15, 2005 Order re progress on some stipulations and reporting that parties will report on further progress on 12/23/05, FILED. (Boyce, Kathy) (Entered: 12/21/2005)
12/20/2005	<u>52</u>	JOINT MOTION to Continue Summary Judgment Hearing from January 13, 2005 to January 24 or 25, 2006 by Peter Black, MD, Eben Alexander, III, Brigham & Women's Physicians Organization, Inc., Boston Neurosurgical Foundation, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan, Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan, Committee on Compensation of the Brigham Surgical Group Foundation, Inc., FILED, c/s.(Boyce, Kathy) Additional attachment(s) added on 12/21/2005 (Boyce, Kathy). (Entered: 12/21/2005)

12/23/2005	⑥	Judge Mark L. Wolf : Electronic ORDER entered granting <u>52</u> Motion to Continue. ALLOWED. The hearing shall be held on January 25, 2006 at 10:30 am. (O'Leary, Dennis) (Entered: 12/28/2005)
12/23/2005	⑦ 53	Letter to Judge Wolf from David C. Casey reporting that the parties are continuing to work towards settlement and will report back to the court re their progress within the next two weeks, FILED. (Boyce, Kathy) (Entered: 12/28/2005)
12/28/2005	⑧	Resetting Hearing. Hearing rescheduled: Summary Judgment Motion Hearing to: 1/25/2005 at 10:30 AM in Courtroom 10. (O'Leary, Dennis) Modified on 12/29/2005 (O'Leary, Dennis). (Entered: 12/28/2005)
12/29/2005	⑨	Notice of correction to docket made by Court staff. Correction made to reflect the accurate date of hearing in the notice of Resetting Hearing entered on 12/28/05. Date of hearing corrected because: original entry had the wrong date. Hearing will take place on 1/25/2006 at 10:30 am. (O'Leary, Dennis) (Entered: 12/29/2005)
01/06/2006	⑩ 54	TRANSCRIPT of Hearing held on November 15, 2005 before Judge Wolf. Court Reporter: Richard H. Romanow. The original transcripts are maintained in the case file in the Clerk's Office. Copies may be obtained by contacting the court reporter at 617/737-0370 or the Clerk's Office. (Scalfani, Deborah) (Entered: 01/06/2006)
01/24/2006	⑪ 55	Joint MOTION To Reschedule Summary Judgment Hearing re Order on Motion to Continue by Eben Alexander, III.(Paris, Michael) (Entered: 01/24/2006)
01/24/2006	⑫	Judge Mark L. Wolf : Electronic ORDER entered denying <u>55</u> Motion to reschedule summary judgment hearing: "As the parties have had many opportunities to exchange documents and stipulate to relevant facts, and the court has prepared to conduct the January 25, 2006 hearing before receiving this belated motion, it is hereby DENIED." (Boyce, Kathy) (Entered: 01/24/2006)
01/25/2006	⑬ 56	STIPULATION Revised Supplemental Agreed by Peter Black, MD, Eben Alexander, III, Brigham & Women's Physicians Organization, Inc., Boston Neurosurgical Foundation, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan. Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan, Committee on Compensation of the Brigham Surgical Group Foundation, Inc.. (Casey, David) (Entered: 01/25/2006)
01/25/2006	⑭ 57	Clerk's Notes for proceedings held before Judge Mark L. Wolf : Motion Hearing held on 1/25/2006 re <u>31</u> MOTION for Summary Judgment filed by Eben Alexander, III. <u>39</u> MOTION for Summary Judgment filed by Fidelity Management Trust Company., Brigham & Women's Physicians Organization, Inc., Boston Neurosurgical Foundation, Inc., Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan., Committee on Compensation of the Brigham Surgical Group Foundation, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan.. (Court Reporter Romanow.) (O'Leary, Dennis) (Entered:

		01/27/2006)
01/26/2006	58	Judge Mark L. Wolf : ORDER entered denying 31 Motion for Summary Judgment, denying 39 Motion for Summary Judgment and establishing filing deadline. (O'Leary, Dennis) (Entered: 01/27/2006)
01/27/2006	59	JOINT SUBMISSION pursuant to Local Rule 16.1 <i>Proposed Schedule</i> by Eben Alexander, III.(Paris, Michael) (Entered: 01/27/2006)
02/03/2006	60	Letter to Judge Wolf from Colleen C. Cook in response to the Court's Order dated 1/26/06 and informing the court that the pltf does not believe that the court's recusal is required by 28:455(a), FILED. (Boyce, Kathy) Additional attachment(s) added on 2/6/2006 (Boyce, Kathy). Modified on 2/6/2006 to add electronic pdf to document as document was inadvertently not e-filed by counsel but filed in hard copy (Boyce, Kathy). (Entered: 02/06/2006)
02/05/2006	61	Judge Mark L. Wolf : Electronic ORDER entered. ELECTRONIC ENDORSEMENT re 59 Joint submission filed by Eben Alexander, III Discovery to be completed by 3/30/2006. Status Report due by 4/20/2006. Trial set for 5/1/2006 09:30 AM in Courtroom 10 before Chief Judge Mark L. Wolf. Pretrial Conference set for 4/25/2006 03:00 PM in Courtroom 10 before Chief Judge Mark L. Wolf.(O'Leary, Dennis) (Entered: 02/06/2006)
02/06/2006	62	Notice of correction to docket made by Court staff. Correction: Document No. 60, Letter corrected because: to attach electronic document to entry as Letter was inadvertently sent by hard copy to Clerk's Office (Boyce, Kathy) (Entered: 02/06/2006)
03/02/2006	63	TRANSCRIPT of Hearing held on January 25, 2006 before Judge Wolf. Court Reporter: Richard H. Romanow. The original transcripts are maintained in the case file in the Clerk's Office. Copies may be obtained by contacting the court reporter at 617/737-0370 or the Clerk's Office. (Scalfani, Deborah) (Entered: 03/02/2006)
03/14/2006	64	Joint MOTION Reschedule Pre-Trial Conference by Peter Black, MD, Eben Alexander, III, Brigham & Women's Physicians Organization, Inc., Boston Neurosurgical Foundation, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan, Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan, Committee on Compensation of the Brigham Surgical Group Foundation, Inc..(Casey, David) (Entered: 03/14/2006)
04/07/2006	65	Letter/request (non-motion) from David Casey. (Casey, David) (Entered: 04/07/2006)
04/20/2006	66	STATUS REPORT <i>Filed on behalf of all parties</i> by Eben Alexander, III. (Cook, Colleen) (Entered: 04/20/2006)
04/21/2006	67	Notice Cancelling Hearing. Hearings cancelled: Pretrial Conference and Trial (O'Leary, Dennis) (Entered: 04/21/2006)
07/12/2006	68	NOTICE of Hearing : Pretrial Conference set for 9/7/2006 02:30 PM in

		Courtroom 10 before Chief Judge Mark L. Wolf. (O'Leary, Dennis) (Entered: 07/12/2006)
08/08/2006	62	Judge Mark L. Wolf : Electronic ORDER entered finding as moot <u>62</u> Motion continue pretrial conference (O'Leary, Dennis) (Entered: 08/08/2006)
08/30/2006	67	PRETRIAL MEMORANDUM by Fidelity Management Trust Company, Peter Black, MD, Eben Alexander, III, Brigham & Women's Physicians Organization, Inc., Boston Neurosurgical Foundation, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan, Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan, Committee on Compensation of the Brigham Surgical Group Foundation, Inc.. (Attachments: # 1 Exhibit A)(Cook, Colleen) (Entered: 08/30/2006)
09/07/2006	68	Electronic Clerk's Notes for proceedings held before Judge Mark L. Wolf : Final Pretrial Conference held on 9/7/2006. Michael PAris & Colleen Cook for the plaintiff. David Casey for the defendants. Court raises the issue of its association with Dr. Gottlieb. Parties to report re: conflict/recusal by 9/15/2006. Trial date set for 10/19/06 and will continue day to day. Each side given up to 3.5 hours to present its case. Motion in limine due by 9/25/06, responses due by 10/10/06. Proposed findings of fact and conclusions of law due by 10/10/06. (O'Leary, Dennis) (Entered: 09/08/2006)
09/07/2006	68	Judge Mark L. Wolf : ORDER entered. For the reasons described in court on September 7, 2006, it is hereby ORDERED that: 1. Counsel shall consult the parties and, by September 15, 2006, state whether the parties believe that, in view of my association with Dr. Gary Gottlieb, my recusal is required by 28 U.S.C. ?455(a) and, in any event, whether they wish to waive this possible ground for recusal pursuant to 28 U.S.C. 455 (e). 2. Any party who intends to file a motion in limine shall do so by September 25, 2006. Any response to a motion in limine shall be filed by October 10, 2006. 3. The parties shall, by October 10, 2006, file proposed findings of fact, proposed conclusions of law and, if necessary, a brief bench memorandum. 4. The bench trial of this action shall commence on October 19, 2006, and will continue day to day. Each party will be allowed up to 3.5 hours to present its case. (O'Leary, Dennis) Additional attachment(s) added on 9/8/2006 (O'Leary, Dennis). (Entered: 09/08/2006)
09/15/2006	69	September 15, 2006 Letter/request (non-motion) from Colleen Cook regarding Court's Order dated September 7, 2006. (Cook, Colleen) (Entered: 09/15/2006)
09/25/2006	70	MOTION in Limine to Exclude the Testimony of Norman Stein by Peter Black, MD, Brigham & Women's Physicians Organization, Inc., Boston Neurosurgical Foundation, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan, Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan. Committee on Compensation of the Brigham Surgical Group Foundation, Inc.. (Attachments: # 1 Exhibit 1# 2 Exhibit 2)(Casey, David) (Entered: 09/25/2006)

09/25/2006	71	MOTION in Limine to Exclude the Testimony of Defendants' Expert, <i>Stephen Sadowski</i> by Eben Alexander, III. (Attachments: # 1 Exhibit A# 2 Exhibit B# 3 Exhibit C)(Cook, Colleen) (Entered: 09/25/2006)
09/25/2006	72	MOTION in Limine to Exclude Late Produced "New" Versions of the <i>UDC and FRBP</i> by Eben Alexander, III. (Attachments: # 1 Exhibit A# 2 Exhibit B# 3 Exhibit C# 4 Exhibit D# 5 Exhibit E# 6 Exhibit F# 7 Exhibit G# 8 Exhibit H)(Cook, Colleen) (Entered: 09/25/2006)
09/26/2006	73	ELECTRONIC NOTICE issued requesting courtesy copy for 72 MOTION in Limine to Exclude Late Produced "New" Versions of the <i>UDC and FRBP</i> , 71 MOTION in Limine to Exclude the Testimony of Defendants' Expert, <i>Stephen Sadowski</i> , 70 MOTION in Limine to Exclude the Testimony of <i>Norman Stein</i> . Counsel who filed this document are requested to submit a courtesy copy of this document (or documents) to the Clerk's Office by 9/28/2006. These documents must be clearly marked as a Courtesy Copy and reflect the document number assigned by CM/ECF. (O'Leary, Dennis) (Entered: 09/26/2006)
10/10/2006	73	Opposition re 71 MOTION in Limine to Exclude the Testimony of Defendants' Expert, <i>Stephen Sadowski</i> filed by Peter Black, MD, Brigham & Women's Physicians Organization, Inc., Boston Neurosurgical Foundation, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan, Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan, Committee on Compensation of the Brigham Surgical Group Foundation, Inc.. (Attachments: # 1 Exhibit 1) (Casey, David) (Entered: 10/10/2006)
10/10/2006	74	Opposition re 72 MOTION in Limine to Exclude Late Produced "New" Versions of the <i>UDC and FRBP</i> filed by Peter Black, MD, Brigham & Women's Physicians Organization, Inc., Boston Neurosurgical Foundation, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan, Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan, Committee on Compensation of the Brigham Surgical Group Foundation, Inc.. (Attachments: # 1 Exhibit 1# 2 Exhibit 1A# 3 Exhibit 1B# 4 Exhibit 1C# 5 Exhibit 1D# 6 Exhibit 1E# 7 Exhibit 1F# 8 Exhibit 1G# 9 Exhibit 1H# 10 Exhibit 1I# 11 Exhibit 1J# 12 Exhibit 2# 13 Exhibit 3)(Casey, David) (Entered: 10/10/2006)
10/10/2006	75	MOTION to Adopt Defendants' Proposed Findings of Fact and Rulings of Law by Peter Black, MD, Brigham & Women's Physicians Organization, Inc., Boston Neurosurgical Foundation, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan, Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan, Committee on Compensation of the Brigham Surgical Group Foundation, Inc..(Casey, David) (Entered: 10/10/2006)
10/10/2006	76	Proposed Findings of Fact by Peter Black, MD, Brigham & Women's Physicians Organization, Inc., Boston Neurosurgical Foundation, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan, Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit

		Plan, Committee on Compensation of the Brigham Surgical Group Foundation, Inc.. (Casey, David) (Entered: 10/10/2006)
10/10/2006	77	Opposition re <u>70</u> MOTION in Limine to <i>Exclude the Testimony of Norman Stein</i> filed by Eben Alexander, III. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B)(Cook, Colleen) (Entered: 10/10/2006)
10/10/2006	78	Proposed Findings of Fact by Eben Alexander, III. (Cook, Colleen) (Entered: 10/10/2006)
10/10/2006	79	TRIAL BRIEF by Eben Alexander, III. (Cook, Colleen) (Entered: 10/10/2006)
10/11/2006	80	ELECTRONIC NOTICE issued requesting courtesy copy for <u>74</u> Opposition to Motion,,, Counsel who filed this document are requested to submit a courtesy copy of this document (or documents) to the Clerk's Office by 10/13/2006. These documents must be clearly marked as a Courtesy Copy and reflect the document number assigned by CM/ECF. (O'Leary, Dennis) (Entered: 10/11/2006)
10/17/2006	80	MOTION for Leave to File <i>Reply Brief in Support of Motion in Limine to Exclude Late Produced "New" Versions of the UDC and FRBP</i> by Eben Alexander, III.(Cook, Colleen) (Entered: 10/17/2006)
10/17/2006	81	REPLY to Response to Motion re <u>72</u> MOTION in Limine to <i>Exclude Late Produced "New" Versions of the UDC and FRBP</i> , <u>80</u> MOTION for Leave to File <i>Reply Brief in Support of Motion in Limine to Exclude Late Produced "New" Versions of the UDC and FRBP</i> filed by Eben Alexander, III. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C# <u>4</u> Exhibit D)(Cook, Colleen) (Entered: 10/17/2006)
10/19/2006	82	Judge Mark L. Wolf : SEQUESTRATIN ORDER entered. (O'Leary, Dennis) (Entered: 10/19/2006)
10/19/2006	83	Clerk's Notes for proceedings held before Judge Mark L. Wolf : Bench Trial held on 10/19/2006. (Court Reporter Romanow.) (O'Leary, Dennis) Modified on 10/25/2006 (O'Leary, Dennis). (Entered: 10/19/2006)
10/20/2006	85	Clerk's Notes for proceedings held before Judge Mark L. Wolf : Bench Trial completed on 10/20/2006. (Court Reporter Romanow.) (O'Leary, Dennis) (Entered: 10/25/2006)
10/23/2006	84	Response by Fidelity Management Trust Company, Fidelity Investments Institutional Operations Co., Inc., Fidelity Management Trust Co., Brigham & Women's Physicians Organization, Inc., Boston Neurosurgical Foundation, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan, Brigham Surgical Group Foundation, Inc. Faculty Retirement Benefit Plan, Committee on Compensation of the Brigham Surgical Group Foundation, Inc. <i>Post-Trial Submissions Concerning Plan Participants Who Served on BSG's Executive Committee and 501(C)(3) Limits On Compensation.</i> (Attachments: # <u>1</u> Exhibit 1# <u>2</u> Exhibit 2# <u>3</u> Exhibit 3# <u>4</u> Exhibit 4)(Casey, David) (Entered: 10/23/2006)

11/01/2006	86	Letter/request (non-motion) from Laurie Drew Hubbard <i>enclosing complete copy of Trial Exhibit 4.</i> (Attachments: # 1 Exhibit Trial Ex. 4) (Casey, David) (Entered: 11/01/2006)
12/26/2006	87	Judge Mark L. Wolf : ORDER entered. MEMORANDUM AND ORDER. In view of the foregoing, it is hereby ORDERED that: 1. Judgment shall enter for defendants on Counts IX and X.2. Counsel shall confer and, by January 12, 2007, inform the court whether Counts XI, XII, and XIII may be dismissed.(O'Leary, Dennis) (Entered: 12/26/2006)
01/12/2007	88	Letter/request (non-motion) from Colleen Cook <i>pursuant to Court Order dated December 26, 2006.</i> (Cook, Colleen) (Entered: 01/12/2007)
01/12/2007	89	Judge Mark L. Wolf : ORDER entered. In view of the January 12, 2007 letter from counsel for Plaintiff Eben Alexander, III, it is hereby ORDERED that: 1. Counts XI and XIII are DISMISSED. 2. Judgment shall enter for defendants on Count XII.(O'Leary, Dennis) (Entered: 01/19/2007)
01/19/2007	90	Judge Mark L. Wolf : ORDER entered. JUDGMENT in favor of Defendants against Plaintiff(O'Leary, Dennis) (Entered: 01/19/2007)
01/25/2007	91	NOTICE OF APPEAL as to 90 Judgment by Eben Alexander, III. Filing fee \$ 455, receipt number 1382985 NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov/clerks/transcript.htm MUST be completed and submitted to the Court of Appeals. (Cook, Colleen) (Entered: 01/25/2007)